

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**LEO C. PADILLA, JR.,**

**Plaintiff,**

**vs.**

**Civ. No. 99-0648 JP/LCS**

**JO ANNE B. BARNHART,  
COMMISSIONER OF SOCIAL SECURITY**

**Defendant.**

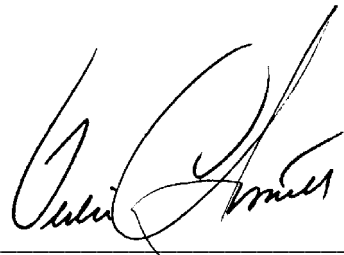
**MAGISTRATE JUDGE'S PROPOSED FINDINGS AND RECOMMENDED  
DISPOSITION**

**THIS MATTER** is before the Court *sua sponte* upon Plaintiff's Complaint against the Social Security Administration filed June 21, 1999 (Doc. 1). Plaintiff is proceeding *pro se*. On April 13, 2000, Defendant HHS filed a motion to remand the matter to the Commissioner of Social Security (Doc. 11). Chief Judge James A. Parker granted Defendant HHS' Motion on April 18, 2000 (Doc. 12). Defendant Barnhart filed an unopposed motion to reopen the case on May 16, 2003 (Doc. 13). Chief Judge Parker granted Defendant's unopposed motion on May 19, 2003 (Doc. 15). On May 27, 2003 Defendant filed an Answer to Plaintiff's Complaint (Doc. 16). The Court thereafter set a briefing scheduling requiring Plaintiff to file a Motion to Reverse or Remand Administrative Agency Decision with supporting memorandum by July 14, 2003 (Doc. 17). It also required Defendant to file a response by August 28, 2003 and permitted Plaintiff to file a reply thereto by September 11, 2003 (Doc. 17).

Plaintiff failed to file a Motion to Reverse or Remand Administrative Agency Decision. Petitioner has come forward with no additional information to controvert the information provided in the Answer. Plaintiff's failure to comply with the Court's order or statutory requirements, or to show cause for excusing the failure, indicates a manifest lack of interest in litigating his claims,

*Martinez v. Internal Revenue Service*, 744 F.2d 71, 73 (10th Cir. 1984); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962); *Oklahoma Publishing Co. v. Powell*, No. 78-1856, 1980 WL 6687, at \*2 (10th Cir. Mar. 7, 1980). It also constitutes grounds for dismissing the complaint. *Baker v. Suthers*, No. 00-1332, 2001 WL 617549, at \*\*3 (10th Cir. June 5, 2001). The Court therefore recommends that the matter be dismissed **WITHOUT PREJUDICE**.

Timely objections to the foregoing may be made pursuant to 28 U.S.C. § 636(b)(1)(C). Within ten days after a party is served with a copy of these proposed findings and recommendations that party may, pursuant to § 636(b)(1)(C), file written objections to such proposed findings and recommendations with the Clerk of the United States District Court, 333 Lomas Blvd. NW, Albuquerque, NM 87102. A party must file any objections within the ten day period allowed if that party wants to have appellate review of the proposed findings and recommendations. If no objections are filed, no appellate review will be allowed.

A handwritten signature in black ink, appearing to read 'Leslie C. Smith', is written over a horizontal line.

**LESLIE C. SMITH**  
**UNITED STATES MAGISTRATE JUDGE**